

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF CALIFORNIA**

EDWARD DAVID JONES,

Plaintiff,

v.

MARIANA LOTERSTEIN, et al.,

Defendants.

No. 2:22-CV-0639-DMC-P

**ORDER**

Plaintiff, a prisoner proceeding pro se, brings this civil rights action pursuant to 42 U.S.C. § 1983. Pending before the Court is Plaintiff's motion, ECF No. 13, for leave to file a second amended complaint.

The Federal Rules of Civil Procedure provide that a party may amend his or her pleading once as a matter of course within 21 days of serving the pleading or, if the pleading is one to which a responsive pleading is required, within 21 days after service of the responsive pleading, see Fed. R. Civ. P. 15(a)(1)(A), or within 21 days after service of a motion under Rule 12(b), (e), or (f) of the rules, whichever time is earlier, see Fed. R. Civ. P. 15(a)(1)(B). In all other situations, a party's pleadings may only be amended upon leave of court or stipulation of all the parties. See Fed. R. Civ. P. 15(a)(2).

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1 This action currently proceeds on Plaintiff's first amended complaint, ECF No. 12,  
2 which was filed at the direction of the Court upon determination that Plaintiff's original  
3 complaint was defective. Because Plaintiff has not yet exercised his right to amend as of right,  
4 and because no responsive pleading has been filed, Plaintiff may file a second amended complaint  
5 without leave of Court. See Fed. R. Civ. P. 15(a)(1). The Court will grant Plaintiff 30 days  
6 within which to elect to file a second amended complaint. If no second amended complaint is  
7 filed, the Court will screen the currently operative first amended complaint.

8 Accordingly, IT IS HEREBY ORDERED that:

- 9 1. Plaintiff's motion for leave to amend, ECF No. 13, is denied as  
10 unnecessary; and  
11 2. Plaintiff may file a second amended complaint as of right within 30 days of  
12 the date of this order.

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14 Dated: January 11, 2023



15 DENNIS M. COTA  
16 UNITED STATES MAGISTRATE JUDGE  
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